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PHARMACIA CORPORATION  
GLOBAL PATENT DEPARTMENT  
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In re Application of BADKAR et al.  
Application No.: 10/583,923  
PCT No.: PCT/IB04/04159  
Int. Filing: 13 December 2004  
Priority Date: 23 December 2003  
Attorney Docket No.: PC027698A  
For: STABLE GROWTH HORMONE LIQUID  
FORMULATION

:  
: DECISION ON PETITION  
:  
: UNDER 37 CFR 1.47(a)  
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This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 14 December 2007, to accept the application without the signature of joint inventor, Manpreet Wadhwa. The three month extension of time is granted.

### **BACKGROUND**

On 20 June 2006, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 26 January 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 14 May 2007, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Manpreet Wadhwa alleging that Mr. Wadhwa refuses to sign the application.

On 17 July 2007, a decision dismissing the petition was mailed indicating that applicant had failed to demonstrate that Ms. Wadhwa refused to sign the application.

On 14 December 2007, applicant filed the instant renewed petition.

### **DISCUSSION**

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application

§1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant previously satisfied Item (1), (3) and (4).

With respect to Item (2) above, Petitioner alleges that Mr. Wadhwa refuses to sign the application. In support of this position, Petitioner previously provided an email communication dated April 6, 2007 from Vick (Manpreet) Wadhwa to S. Christopher Bauer (attorney of record) referring to "Pfizer Legal Documents for PC027698".

With the submission of the renewed petition, counsel provided a copy of the correspondence sent to the nonsigning inventor's last known address along with United States Postal Service (USPS) Return Receipt and Track and Confirm Statement indicating delivery to Mr. Wadhwa. The correspondence dated March 23, 2007 indicates that a copy of the application as filed, declaration and assignment was enclosed. The USPS Return Receipt and Track and Confirm Statement indicate that the delivery was made to the addressee on 27 March 2007. This evidence along with Mr. Wadhwa's email dated April 6, 2007 is sufficient evidence to show that Mr. Wadhwa refuses to sign the application papers.

In sum, Petitioner has now satisfied Items (1) - (4) above. Petitioner has satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/583,923 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for her signature and (2) Mr. Wadhwa's refusal to sign, either in writing, these documents.


For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

### CONCLUSION

The petition under 37 CFR §1.47(a) is GRANTED.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 14 May 2007. The application has an international filing date of 13 December 2004 under 35 U.S.C. 363, and a date of 14 May 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office  
Office of PCT Legal Administration

Telephone: (571) 272-3286  
Facsimile (571) 272-0459